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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 IN RE: TERRORIST ATTACKS
4 ON SEPTEMBER 11, 2001,

03 MDL 1570 (GBD) (FM)

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5
6 New York, N.Y.
7 May 13, 2015
10:15 a.m.

8 Before:

9 HON. FRANK MAAS,

10 Magistrate Judge

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13 APPEARANCES

14 For Plaintiffs:

15 KREINDLER & KREINDLER
16 BY: JAMES P. KREINDLER
ANDREW J. MALONEY

17 ANDERSON KILL
18 BY: JERRY S. GOLDMAN
BRUCE STRONG

19 MOTLEY RICE
20 BY: ROBERT T. HAEFELE

21 COZEN O'CONNOR
22 BY: SEAN P. CARTER

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APPEARANCES (continued)

For Defendants:

BERNABEI & WACHTEL
BY: ALAN R. KABAT

SALERNO & ROTHSTEIN
BY: PETER C. SALERNO
AMY ROTHSTEIN

LAW OFFICE OF OMAR T. MOHAMMEDI
BY: OMAR T. MOHAMMEDI

MARTIN F. McMAHON & ASSOCIATES
BY: MARTIN F. McMAHON

LAW OFFICES OF CHRISTOPHER MANNING
BY: CHRISTOPHER MANNING

MOLO LAMKEN
BY: ROBERT K. KRY

CLIFFORD CHANCE
BY: STEVEN COTTREAU
RONI E. BERGOFFEN

LEWIS BAACH
BY: AISHA E. HENRY
WALEED NASSAR

GOETZ & ECKLAND
BY: FREDERICK J. GOETZ

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(Case called)

THE COURT: I know the attorneys' fees motion is pending, and I expect to have a decision within the next few weeks, if not sooner.

There's the issue that Salerno & Rothstein has raised with respect to Yassin Abdullah Kadi. And I guess the only thing left, Mr. Salerno, is the issue of the interrogatories; is that correct?

MR. SALERNO: That's correct, your Honor, interrogatories 1 to 7 and to a limited extent that.

THE COURT: I didn't hear the last part.

MR. SALERNO: To a limited extent interrogatories 1 through 7 to the extent that they seek the identities of persons with relevant knowledge. We've had discussions with the plaintiffs about that. And they've agreed to answer them, it's just a question of when, we don't have any idea of when. These were served in September of 2013.

THE COURT: Who's speaking for the plaintiffs?

MR. CARTER: Your Honor, Sean Carter. And I apologize for not being there in person, but the train derailment disrupted my travel plans this morning.

With regard to the interrogatories number 1 through 7, as Mr. Salerno indicated, they seek identification of witnesses with relevant knowledge. As your Honor will recall, we had discussions about the merit of serving interrogatories of that

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1 nature very early on in the discovery process, and your Honor
2 ultimately concluded that those types of interrogatories
3 weren't a productive path for us to go down. And in the
4 alternative what we ended up doing was to use the initial
5 disclosure process as a mechanism for the parties to identify
6 witnesses with relevant knowledge.

7 The defendants' executive committee, as your Honor is
8 aware, has proposed that a deadline be set for the parties to
9 refine and update those initial disclosures, identifying
10 witnesses with relevant knowledge. And so our proposal is
11 simply that the individual requests made by Defendant Kadi to
12 have plaintiffs update their witness list for witnesses with
13 relevant knowledge to the claims against him be taken care of
14 through the omnibus updating of the initial disclosures.

15 THE COURT: Mr. Salerno.

16 MR. SALERNO: Up to a certain point, I guess
17 Mr. Carter is correct. But our view is our interrogatories are
18 a little broader.

19 The 26(a) witness disclosures are witnesses on whom
20 parties intend to rely, and ours seek witnesses with relevant
21 knowledge. And Mr. Carter has been using that language. If he
22 really means that he's going to identify witnesses with
23 relevant knowledge beyond those on whom their side intends to
24 rely, we are getting a lot closer to, I think, an agreement.

25 THE COURT: I thought one of the problems in the

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1 earlier stage of the case was that the defendants took the view
2 that they've been given the kitchen sink. And maybe when
3 Mr. Carter talks about refining the 26(a) disclosures, that
4 would cure that problem.

5 MR. SALERNO: Well, I can't speak for the other
6 defendants and what they want or don't want. Obviously on the
7 one hand I'm sure we'd all like a narrow view of the witnesses
8 that might be used, but in discovery we need as broad a view as
9 possible about who they think has relevant knowledge.

10 THE COURT: I guess the first question, perhaps from
11 Mr. Carter, is when is the plaintiffs' executive committee
12 going to revise the 26(a)(3) disclosures?

13 MR. CARTER: Your Honor, that was an issue that we
14 felt was bound up with the other deadline dates, including the
15 dates by which defendants would be completing their productions
16 and the dates by which we might have additional materials from
17 them as a result of motions to compel, because we obviously
18 want to scan through those documents on a comprehensive basis
19 before we identify the full universe of people we may call as
20 witnesses or rely upon in connection with the theories.

21 THE COURT: The only letter that I received suggesting
22 that somebody had not completed -- as far as they were
23 concerned on the defense side -- their production was from Molo
24 Lamken with respect to Dallah Avco. And pursuant to my order,
25 I assume that means that everybody else takes the position that

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1 they're done with their production. Maybe that's a
2 Polly-Ann-ish view of what's going on, but I thought that's, in
3 effect, what's been represented to the Court.

4 MR. KABAT: That's correct, your Honor.

5 MR. HAEFELE: Your Honor, this is Robert Haeefele.

6 If I can address that issue just for one moment.

7 The concern I had with the language that your Honor
8 had put in the order was that, for example, if someone does not
9 send you a letter because they are not participating, because
10 they don't plan on participating, we would not know that based
11 on what your Honor's order was.

12 THE COURT: Well, presumably if you've gotten no
13 documents from somebody, they are not participating. Am I
14 missing something there?

15 MR. HAEFELE: No, I don't think you are, your Honor.
16 But that's the problem, is that they may take the position
17 either that there are no documents, or they may take the
18 position that they aren't participating, so they are not, and
19 we just wouldn't know. I think that's one of the things that
20 we had asked for, some acknowledgment from the defendants so we
21 would know one way or the other.

22 THE COURT: Let's table that for the moment and go
23 back to Mr. Salerno's request.

24 MR. CARTER: Your Honor, it's Sean Carter again.

25 THE COURT: Yes.

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1 MR. CARTER: I think we are at a point where we can
2 set some dates for these further processes based on the
3 representations that had been made by the defendants.

4 By virtue of Dallah Avco's letter yesterday indicating
5 that it would be completing its production in the very near
6 future, we can retain an omnibus schedule for all defendants,
7 which is obviously something that the plaintiffs have felt to
8 be in the appropriate approach throughout. All we want is that
9 the schedule is a reasonable schedule reflecting the scope of
10 the productions, the complexity of the review of those
11 materials, the potential that defendants may be ordered to make
12 additional productions in response to motions to compel, which
13 is something we think is very likely under the circumstances,
14 and that we be afforded enough time in this process to have
15 dialogues with the defendants so that we can resolve some of
16 these issues without motion practice.

17 THE COURT: In principle, I'm certainly not opposed to
18 anything you've said. And I suppose one way I could deal with
19 this is to set a date for the amended initial disclosures
20 pursuant to Rule 26, see whether that satisfies Mr. Salerno and
21 potentially other defendants' counsel, rather than dealing with
22 the issue of interrogatories 1 through 7 now.

23 Although I understand that the plaintiffs contend
24 that's somewhat bound up with document production, it seems to
25 me that the connection between the two is not as strong as

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1 plaintiffs perhaps suggest.

2 So when are the plaintiffs in a position to provide
3 their amended or revised list of persons who are knowledgeable?

4 MR. CARTER: Your Honor, it's Mr. Carter again.

5 Again, some of my colleagues may have a different
6 view, but I would expect, based on what we've been told to
7 expect from the defendants, that we could probably complete
8 those revisions by July 30th.

9 THE COURT: Is there anybody on the defense side who
10 objects to that schedule?

11 I don't see anybody standing up to oppose that, so
12 July 30th it is.

13 And based on that, Mr. Salerno, I guess I'll table
14 discussion of your interrogatories 1 through 7.

15 MR. SALERNO: Fair enough, your Honor.

16 I guess if we understand that the plaintiffs had
17 intended to respond to them, we may very well be satisfied by
18 that date, to the extent that they are not exactly coterminous
19 with the 26(a) disclosures.

20 THE COURT: If it turns out that Yassin Kadi, for one,
21 is not satisfied, if I conclude that the interrogatories should
22 be answered or answered in part, plaintiffs' counsel should
23 expect that I would set a fairly short date for the completion
24 of the answers to the interrogatories.

25 Certainly what I said at one conference, as consistent

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1 with what I've always said, which is I'm not a fan of
2 interrogatories, particularly in early stages. Notwithstanding
3 where we are in terms of document production in a case filed in
4 2003, it's hard to say with a straight face that we're in the
5 early stage of the process. So July 30th it is.

6 MR. COTTREAU: Just one point of clarification on
7 what's going to be supplemented by July 30th.

8 If you'll remember, at the end of 2010 we got a list
9 of over 1,000 witnesses from the plaintiffs. And then I think
10 in April of 2011 you ordered that they give us a Cliff's Notes
11 version, if you will, of folks that they intend to call to
12 testify or have the present ability to secure a declaration
13 from.

14 Is it the Cliff's Notes version that will be
15 supplemented by end of July or is it the longer 26(a)
16 disclosure?

17 THE COURT: That's a fair question.

18 It seems to me it probably is the Cliff's Notes
19 version, and I'm not sure it's necessarily supplemented so much
20 as refined. I don't know that the list should grow; perhaps it
21 should narrow.

22 Is that consistent with what you had in mind,
23 Mr. Carter?

24 MR. CARTER: Your Honor, I think that is the list that
25 we would be refining. In terms of the potential that it might

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1 grow, I think it would principally grow by virtue of the
2 identification of witnesses we were unaware of in defendants'
3 documents. So there may be some addition as a result of that.

4 It does seem, as your Honor hinted at the beginning,
5 that perhaps Mr. Salerno on behalf of Mr. Kadi is asking for
6 something different than other of the defendants had requested.
7 So I think we'd just like to be clear on what we're expected to
8 do with regard to the updating of the initial disclosures.

9 THE COURT: Well, as to Yassin Abdullah Kadi, for the
10 moment, nothing different than for any of the other defendants.
11 But procedurally, that defendant, and perhaps a few others, are
12 in the relatively unique position of their cases having been
13 remanded for either discovery or further discovery. And in
14 light of that, it may well be that as we move forward, I do
15 allow interrogatories of the sort that Salerno & Rothstein have
16 propounded.

17 MR. CARTER: That's fine, your Honor. Thank you.

18 THE COURT: Anything else on that issue?

19 As I said, the only letter I received was from Dallah
20 Avco, which explained what additional documents it intends to
21 produce. I'm not sure that the letter indicates when the
22 document production will be complete. I guess it says by June;
23 is that correct?

24 MR. KRY: We actually submitted an update to that
25 letter yesterday, which was the one that Mr. Carter referred

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1 to.

2 THE COURT: Okay.

3 MR. KRY: And based on additional manpower that's been
4 assigned to this, as well as other factors, we now expect to
5 get through that production by around the end of the month.

6 THE COURT: Oh, terrific.

7 And I take it, based on that, that at least for the
8 moment there are no particular issues with respect to Dallah
9 Avco from the plaintiffs' side; is that correct?

10 MR. CARTER: Your Honor, there was a motion that had
11 been filed a while ago through which the plaintiffs sought
12 clarification as to the scope of the search that was being
13 undertaken by Dallah Avco.

14 Based on the objections that were lodged to the
15 individual requests and some of the conversations we had, it
16 was unclear to us which of the document requests were being
17 considered for purposes of the search. And there was a concern
18 on our part that perhaps Dallah Avco was conducting a search
19 solely for the name Omar Al-Bayoumi, which is not something
20 that we thought to be appropriate based on the remand.

21 We've already addressed that motion with your Honor,
22 but it just hasn't been ruled on. So I flag it only for that
23 reason.

24 THE COURT: And I confess, I didn't really focus on
25 the motion because it sounded like it was being worked out.

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1 Let me ask Mr. Kry.

2 MR. KRY: That was our impression, as well, your
3 Honor. If there are still any points that need clarification,
4 we are happy to meet and confer with Mr. Carter sometime.

5 THE COURT: Was the search as narrow as he fears it
6 might have been?

7 MR. KRY: I don't think so at all. The Second Circuit
8 remanded the case based on a specific jurisdictional allegation
9 which related to the claim that our clients had provided some
10 sort of cover employment was the term the Court used to a
11 Mr. Omar Al-Bayoumi.

12 And so we made clear throughout that the scope of our
13 search was all documents relating to Mr. Al-Bayoumi, and that's
14 involved review of something more than a million documents so
15 far. So it's actually been a very broad search and that
16 subsumes a large number of the requests that they originally
17 propounded on us.

18 On Docket No. 2896, page 3, we list the specific
19 requests that we think are wholly subsumed within that; that's
20 numbers 1 to 17, 24 to 30, 34, 36, 38 --

21 THE COURT: Wait. Do those numbers more slowly.

22 MR. KRY: 1 to 17, 24 to 30, 34, 36, 38, and 41 to 44.

23 And those are all requests that ask for particular
24 categories of information relating to Mr. Al-Bayoumi, which we
25 view as fairly within what the Second Circuit was asking for.

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1 For some of the other requests, they're really pretty
2 far afield. For example, one of the requests is all documents
3 relating to the Kingdom of Saudi Arabia government. That has
4 millions of documents for a government contractor. And so to
5 the extent there are documents that relate to the kingdom and
6 Mr. Al-Bayoumi, those will get picked up in the search. But
7 beyond that, we just think it is beyond the scope of
8 appropriate jurisdictional discovery.

9 So that was in our letter that we filed last
10 September. And if there are any further points of
11 clarification, we are happy to meet and confer over those with
12 Mr. Carter, but I'm not sure there's a live issue for the Court
13 to resolve at this point.

14 THE COURT: Mr. Carter.

15 MR. CARTER: Your Honor, we can take that up with them
16 separately. I think that we're at a point like they were where
17 we just disagree about the scope of the remand, and that we'll
18 likely just have to proceed either to work it out or to have
19 motion practice relating to that issue.

20 THE COURT: Given that, why shouldn't I deny the
21 motion without prejudice to a renewed application? It does
22 sound like it's narrower, if nothing else.

23 MR. CARTER: That's fine, your Honor.

24 THE COURT: Okay.

25 Then there was the issue of scheduling generally

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1 beyond the July 30th date we just spoke about.

2 Is there anything else we should be taking up today?

3 MR. KABAT: Regarding the briefing schedule for motion
4 to compel, we want to move forward with fact witness discovery
5 and expert discovery. We would propose July 31st for motion to
6 compel to be filed. And we had originally proposed a date I
7 think at the end of May. And all the defendants are moving
8 forward with fact witness discovery.

9 Now the plaintiff essentially made two objections.

10 First of all, they object to the volume of documents
11 while the fact is that the plaintiff submitted voluminous
12 document requests; it sought information about dozens and
13 hundreds of individuals. And the plaintiffs sought information
14 with respect to the surety defendants about every foreign
15 affiliate, every foreign branch office. It's going to be
16 thousands of documents produced by many of these defendants.
17 And also plaintiffs complain that many of the documents require
18 translation. Well, again, that's inevitable. We sued foreign
19 defendants who have foreign offices in countries around the
20 world.

21 I want to say a few words about the pace of the
22 document production.

23 The defendants have produced approximately 622,000
24 pages of documents. A third of those documents were produced
25 through 2013, a year and-a-half ago; two-thirds of those

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1 documents, just over 400,000, were produced through last July
2 2014. So only one-third of the document production was
3 produced from August through December of last year. And the
4 plaintiff complains that some documents are being produced in
5 this calendar year. When you look at the numbers, that's less
6 than one percent; in fact, it's one-fourth of one percent, and
7 it primarily comes from two defendants: Dallah Avco and Al
8 Haramain. We did a supplemental production as to that
9 defendant.

10 And we have repeatedly informed the plaintiffs that we
11 are willing to allow additional time for motion to compel as to
12 the productions that were made in this calendar year to give
13 the plaintiff additional time to review those. We are only
14 talking about several thousand pages that are being produced in
15 this calendar year.

16 But I speak for all the defendants in saying we want
17 to move the case forward. And the way to make that happen is
18 to have a deadline for motion to compel so we get the document
19 production completely out of the way, and then we can move
20 forward with fact witness discovery.

21 Thank you.

22 MR. KREINDLER: Your Honor, Jim Kreindler.

23 Just a word.

24 This dispute is really over about a two-month period,
25 the difference between the end of July and the end of

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1 September.

2 No one on the face of the earth is more anxious to see
3 this case tried or settled than me and my colleagues. It's
4 self-evident.

5 THE COURT: In the elevator on the way up I was
6 thinking that this is probably the only case I have where I've
7 never used the word "settlement."

8 MR. KREINDLER: Well, maybe it's time, your Honor.

9 But there will be a resolution.

10 When I heard this schedule, I thought our proposal is
11 not enough time. Frankly, as you know, this case is a
12 marathon; it's not a sprint. And when you get the documents,
13 not only do they have to be translated and understood, but then
14 you've got to compare them to documents produced by all the
15 other defendants. And only then do you get a full
16 understanding of what's there, what hasn't been produced, and
17 what may be there that's needed in the supplemental request.

18 And my colleagues thought that they could live with
19 what we think is a very fast-paced schedule to get a lot of
20 work done by the end of September. We wouldn't propose it
21 unless realistically we need it; and that's teams of people
22 working all the time to master it and get the documents
23 digested and understood so we're ready to make meaningful
24 motions. The difference of two months, after struggling with
25 this case for 13 years, is time we need to do it right.

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1 MR. CARTER: Your Honor, Sean Carter. If I could just
2 piggyback on what Mr. Kreindler just said.

3 We've obviously been very patient and accommodating of
4 the defendants in their many requests for extensions. And I
5 think that the numerous extension requests that they made to
6 complete their document productions reflect the complexity of
7 the materials at issue.

8 And as Mr. Kreindler indicated, it's not simply a
9 matter of translating the documents, it's also a matter of
10 having appropriate subject matter experts analyze them. There
11 are a variety of disciplines required in order to do that,
12 because you not only have documents where individual names and
13 relationships are significant, but you also have financial
14 materials that require a completely different type of analysis.
15 And I can assure you that we've had teams of people looking at
16 these diligently.

17 The manner in which the documents were produced has
18 complicated this process. It is not as though, for instance,
19 we've received a production that includes all financial records
20 for a defendant from all of its offices, organized by office
21 and by year; rather, we've received productions that include
22 just a whole range of materials with no really internal logic,
23 and that has complicated the process.

24 But this is a reasonable schedule. And we do
25 anticipate that the motion practice will be staggered, as I

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1 think your Honor has expressed a preference for in the past. I
2 know, as an example, that Mr. Cottreau on behalf of his client,
3 Dubai Islamic Bank, has expressed frustration about the
4 timeline for proceedings since his client feels that it's
5 completed its production sometime ago. We could, as an
6 example, in that case, agree to have a motion filed by an
7 earlier date. I think June 30th would be fine with regard to
8 that particular defendant.

9 But, as a general matter, in order to present these
10 issues, have meet-and-confers, and conclude the process, the
11 deadline we propose is relatively aggressive.

12 THE COURT: The May deadline was the most tempting,
13 but that's come and gone.

14 I do want to ensure that built into this process is
15 some time -- and perhaps it's already been done, but I want to
16 know that when motions are filed, there have been, prior to the
17 filing of the motion, as our rules require, a meet-and-confer
18 to see whether the dispute can be narrowed.

19 So I am going to accept the plaintiffs' September 30
20 deadline. But I want counsel to confer. I'm hardened by what
21 Mr. Carter said about plaintiffs' ability to be able to move
22 with respect to at least one, and perhaps others, of the
23 defendants' earlier date. And so I would ask that within two
24 weeks you submit a schedule to me, an agreed schedule, for
25 anybody as to whom the motion can be filed earlier. And

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1 hopefully it will be more than one defendant.

2 I'm aware that the manner in which the records were
3 produced and how logical the production may seem or how
4 organized has varied considerably from defendant to defendant.
5 And I'm mindful, for example, of what Dallah Avco sent to show
6 that it was basically a shambles of a store room that they were
7 starting to look through.

8 So for those reasons I will allow the date that the
9 plaintiffs want and hope that the schedule will be front-loaded
10 to the extent it can be.

11 And obviously I've just set a date for the filing of
12 the motions. I guess we have an omnibus order that controls
13 opposition and reply papers; is that correct?

14 MR. KABAT: Yes.

15 THE COURT: So I don't need to deal with that.

16 What else should we take up today?

17 MR. CARTER: Your Honor, it's Mr. Carter again. There
18 were just a few other issues.

19 Your Honor has included language in the order relating
20 to this conference about confidentiality designations. And I
21 think we just wanted to let the Court know that we haven't
22 received communications from several of the defendants
23 withdrawing confidentiality designations as to certain of the
24 documents. There may be some remaining issues, but at this
25 point we'll just raise those by letter as appropriate.

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1 THE COURT: Okay.

2 Anything else on the plaintiffs' side?

3 MR. CARTER: The last issue, your Honor, that we had
4 raised was we're still a bit troubled by the timing of the
5 production by Al Haramain USA of the collection of documents
6 relating to its efforts to persuade the United Nations and the
7 U.S. to lift the sanctions that have been imposed upon Al
8 Haramain USA for the stated purpose of allowing the remaining
9 director to dissolve the entity and disburse its remaining
10 assets.

11 I think the timing of the production troubles us based
12 on the track record with the defendant, along with the fact
13 that the Court is presently in the process of considering a fee
14 application that would result in the imposition of monetary
15 sanctions.

16 Obviously the disbursement of the remaining assets
17 would remove from our reach assets that we might otherwise
18 pursue in satisfaction of either a fee award or with respect to
19 the default judgment that's previously been issued as to the
20 parent organization in Saudi Arabia.

21 THE COURT: Presumably the default judgment would
22 dwarf anything that you might gain by way of legal fees.

23 MR. KABAT: Your Honor, may I briefly speak to that?

24 THE COURT: Please.

25 MR. KABAT: We represent all the defendants who

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1 plaintiff alleged have not produced anything.

2 One group of them, the current and former officers of
3 the Muslim World League and the International Islamic Relief
4 Organization do not have personal control and custody of the
5 MWL or the IIRO documents. Instead, what has happened, the
6 Muslim World League and the IIRO have produced some 345,000
7 pages of documents which essentially are the documents that
8 plaintiff requested from the individual officers of those
9 entities. So it would be pointless for our firm to have to go
10 through the 345,000 documents that the other firm has produced
11 and say, Okay, this one is responsive for Dr. Al-Turki, this
12 one is responsive for Dr. Naseef.

13 THE COURT: All of that is interesting, but I'm not
14 sure it responds to the point that Mr. Carter was making with
15 respect to Al Haramain. He doesn't want to see money walk out
16 the door, and I'm not sure --

17 MR. KABAT: I'm sorry, your Honor. I didn't hear
18 Mr. Carter say -- I know he talked about the other group of
19 defendants they were complaining about.

20 THE COURT: Let me revert back to Mr. Carter.

21 Tell us again what it is you're seeking and why.

22 MR. CARTER: Your Honor, I take it at this point we
23 are simply requesting an explanation as to why this particular
24 groups of Al Haramain USA documents that relates specifically
25 to efforts to obtain the removal of sanctions against it were

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1 not produced in a timely manner and were instead held and
2 produced even after the document production deadline.

3 THE COURT: But you did receive those documents now?

4 MR. CARTER: We did receive them; but your Honor had
5 previously dealt with a range of motions about Al Haramain not
6 producing documents in a timely manner. So we've been down
7 this road before.

8 And given the subject matter of the documents that
9 were produced belatedly, we unfortunately could see a reason
10 why Al Haramain USA might have an incentive not to have
11 produced this earlier, because, candidly, it likely would have
12 resulted in efforts on our part to reach out to the U.N. and
13 the U.S. to explain that the removal of sanctions could have
14 adverse consequences to the rights and litigation interests of
15 the 9/11 victims.

16 MR. KABAT: I think there are two separate issues.

17 First of all, we did put in some documents they teared
18 up. We then went back and looked at our earlier production and
19 realized we had not supplemented that to the court filings in
20 the *Organ* case.

21 And the other issue that they have raised is that the
22 two individual officers of Al Haramain and Organ, what we did
23 was all the documents that Al Haramain produced are essentially
24 those that the individual officers would have produced if they
25 had had access to those documents. So that's why the two

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1 individual officers are not producing anything further
2 themselves beyond what Al Haramain itself has produced. So as
3 far as we're concerned, there is really no further issue as to
4 the Al Haramain defendants.

5 THE COURT: Were you able to hear that?

6 MR. CARTER: I was able to hear it, your Honor, but
7 unfortunately I still don't think we have an answer to the
8 specific question as to why documents, some of which involve
9 communication from Mr. Kabat's firm relating to the delisting
10 request, weren't produced in a timely manner.

11 MR. KABAT: I'm sorry, I didn't quite get that.

12 THE COURT: He's asking why in particular documents
13 relating to the effort to have Al Haramain delisted were not
14 produced timely, fearing that it may prejudice the plaintiffs'
15 ability to say that Al Haramain should not be de-designated
16 because that might enable Al Haramain to disburse its remaining
17 funds to the prejudice of the plaintiffs.

18 MR. KABAT: Al Haramain has been defunct for almost 12
19 years. It did not have access to the funds OFAC has, the
20 Office of --

21 THE COURT: Let me just interrupt you for a second.

22 How much money are we talking about roughly?

23 MR. KABAT: I believe it's less than a quarter
24 million.

25 THE COURT: Okay.

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1 MR. KABAT: Also, with the caveat that we have several
2 times asked OFAC for an accounting, we've never gotten one.

3 But we do not have control of those funds; OFAC does.

4 THE COURT: I understand your concern, Mr. Carter.
5 But since you have the documents now, and presumably have your
6 remedies with respect to the U.S. Government, I'm not sure what
7 else I can usefully pursue with Mr. Kabat with respect to this
8 issue.

9 MR. CARTER: Your Honor, it may be an issue we wish to
10 raise with reference to some of the prior court orders about
11 the timeliness of productions and what your Honor expected of
12 them. So we're content to defer it.

13 THE COURT: Okay.

14 Anything else on the plaintiffs' side?

15 MR. CARTER: No, your Honor.

16 MR. GOLDMAN: No, your Honor.

17 MR. MALONEY: No, your Honor.

18 THE COURT: Anything on the defendants' side?

19 MR. SALERNO: Your Honor, just a matter that's
20 completely nonsubstantive. But I was wondering if your Honor
21 would consider entering a blanket order in this case allowing
22 counsel to bring tablets and laptops into these hearings. It
23 would be a great convenience, and the rules are a little
24 cumbersome.

25 THE COURT: I would consider it. The only problem is

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1 I'm not allowed to do it, I understand. It has to be
2 date-specific.

3 MR. SALERNO: Okay.

4 THE COURT: And device-specific, worse yet.

5 The day will come when we'll abandon these procedures,
6 but it may not be before this case ends.

7 MR. HAEFELE: Your Honor, this is Robert Haefele.

8 I just raise this in response to a question just
9 asked.

10 Would it be offensive to you if in each of our letters
11 we made that request, and then an order is entered per
12 conference?

13 THE COURT: If you are asking me whether if you sent
14 me a form that said, We want the following 64 cell phones to be
15 admitted as part of the, in effect, agenda for the next
16 conference, no, that wouldn't offend me at all. The only thing
17 that will offend me is if cell phones start ringing left and
18 right at the next conference.

19 MR. HAEFELE: I think we all understand. We're still
20 obligated to follow the rules.

21 THE COURT: Should I set a date for a next conference?

22 MR. KABAT: Your Honor, Judge Daniels did set a date
23 of July 30th for his end; so perhaps you can set a date on the
24 same day.

25 THE COURT: Let me see. I think that was not on my

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1 calendar, but recently was added.

2 MR. KABAT: Judge Daniels set it for 11 a.m.

3 THE COURT: Why don't I just say if need be; although
4 it doesn't sound like on the schedule we just set up that much
5 of anything will happen between now and then; that if there's
6 something we need to discuss, we can do it after Judge Daniels'
7 conference or in lieu of it if it gets put off again. Okay?

8 MR. KREINDLER: Good.

9 MR. GOLDMAN: Thank you, your Honor.

10 THE COURT: Anything else?

11 Okay. Thank you, all.

12 * * *